

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

DAVID J. CLARK,

Petitioner,

v.

Case No. 12-CV-752

**DEBORAH McCULLOCH,
Institution Director, Sand Ridge
Secure Treatment Center,**

Respondent.

**RESPONDENT'S MOTIONS TO DISMISS PETITION FOR A WRIT OF
HABEAS CORPUS AND TO STAY TIME TO ANSWER PETITION**

Respondent Deborah McCulloch, Director of the Sand Ridge Secure Treatment Center, by undersigned counsel, pursuant to Fed. R. Civ. P. 7 and 12(b)(6), Civil Local Rule 7, and this court's order of August 13, 2012, moves this court for an order dismissing Petitioner David J. Clark's petition for a writ of habeas corpus on the grounds that it fails to state a claim upon which relief can be granted and that this court should abstain from adjudicating the petition under *Younger v. Harris*, 401 U.S. 37 (1971), due to Clark's ongoing state court sexually violent person commitment proceedings. Respondent

also moves this court for an order staying her time to answer Clark's petition pending the court's resolution of the motion to dismiss. Grounds in support of these motions are more fully set forth in Respondent's accompanying brief.

Pursuant to Civil Local Rule 56(a)(1)(A) and 56(a)(2), Respondent provides the following additional notice to Clark:

1. Any factual assertion in any affidavit, if any are attached to this motion, or any other admissible documentary evidence, if any are attached to this motion, shall be accepted by the court as being true unless the party unrepresented by counsel submits the party's own affidavit(s) or other admissible documentary evidence contradicting the factual assertion.

2. Pursuant to Civil Local Rule 56(a)(1)(B) and 56(a)(2), attached to this Motion for Summary Judgment are copies of Fed. R. Civ. P. 56(c), (d) and (e), and Civil Local Rules 56(a), 56(b), and 7. The text of these rules is incorporated into this Motion to Dismiss.

Dated at Madison, Wisconsin this 12th day of September, 2012.

Respectfully submitted,

J.B. VAN HOLLEN
Attorney General

s/ Aaron R. O'Neil

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